

March 3, 2009

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: Petitions for Declaratory Ruling Regarding Public, Educational and  
Governmental Access Channels, MB Docket No. 09-13, CSR-8126 (ACM *et al.*),  
CRS-8127 (City of Lansing, MI), and CSR-8128 (City of Dearborn, MI *et al.*)

Dear Ms. Dortch:

The **Mid Michigan Area Cable Consortium** supports and strongly urges the Commission to grant all three of the above-captioned petitions concerning public, educational and governmental (“PEG”) access channels. The problems created by the AT&T channel platform and Comcast selective digitization of PEG channels are different in many respects (the *failure to comply with FCC rules* by passing through closed captioning is unique to the AT&T platform). Both companies, however, are using their editorial control over their system to make it more difficult or expensive for program producers to use, and for subscribers to access and watch PEG programming. Rather than repeat the legal arguments in the petitions, we file to explain PEG’s role in our community, and why it is important to prevent operators from inhibiting access to these channels.

1. PEG Programming Throughout Gratiot, Isabella, and Clare Counties of Michigan

**The Mid Michigan Area Cable Consortium, with over 12 municipal community members (LFA’s)** provides 7 PEG channels to residents of Gratiot, Isabella and Clare Counties, covering some 66 communities and running roughly 109 miles up the U.S. 127 corridor in central Michigan. The Consortium was formed in 1997 under the 1967 intergovernmental cooperation act in order to fund and provide community access services to some 30 thousand community residents. We currently operate 7 channels, 3 Governmental Access channels, (one each in each county covered), one shared Public Access channel and we provide technical support for 3 educational access channels (one per county) . The programming we provide includes but is never limited to; local council meetings, mayor and/or councilmember topical shows, capital reports from State officials, police and fire safety programs, school and college classes and events, civic and cultural events, local school sports events, ethnic programming,

local issue discussions, local and civic events, festivals and concerts and just about anything that happens in our three county area. These programs have proven invaluable in inspiring county government to change the configuration and make up of a county road commission long thought locally to be a **“good old boys network”** and create an approachable and proactive board. Our programming has **supported the fund raisers and volunteer needs of more than 380 nonprofit organizations in three counties and been responsible for a 40 percent increase in adoptions at the Isabella county animal shelter in less than one year.** We facilitate religious programming from some 7 area churches providing interfaith ministries for a wide range of denominations. We create and support the live and recorded playback of some 9 area municipal boards or councils providing for an engaged and informed citizenry. We provide multi lingual and cultural programming in both Spanish and German and make use of a closed captioning service for other programs offered through our cable service.

**We know without a doubt** Public, educational and Governmental programming in **Gratiot, Isabella and Clare Counties** provides local residents with informational, public safety, educational, cultural and local opinion programming of uniquely local interest that they cannot obtain anywhere else.

## 2. The Situation in Our Community

Over the past year our local cable operator, Charter Communications, has migrated 4 basic tier channels into the digital tier robbing local basic service residents and customers of desired service channels without compensation resulting in what is tantamount to a service cost increase as they now pay for 4 less channels than they receive. They have pushed false and misleading phone “bundle “ claims on elderly residents of our communities and on one occasion caused a resident to miss contact regarding the failing and death of her sister because, unbeknownst to her the company did change her phone number even though their advertisements and installers assured her that would not occur. AT&T has approached communities to our immediate East with requests to begin the installation of the D-slam boxes, refrigerator sized right of way obstructions necessary to the provision of their U-Verse service, and while we anticipate their arrival in our communities shortly we have yet to be aware of that movement.

In August of 2008 Charter Communications informed us that our PEG channels would be converted to digital and taken into the 900 tier of service before the “holidays” in 2008 while still providing analogue channels to broadcasters. Thanks to the Federal court lawsuit launched in January of 2008 by municipalities to our South against a similar action on the part of Comcast those threats have not come to fruition. However as the new state franchising (2007) has stripped all Michigan municipalities of the control of their public right of ways and their ability to negotiate a service franchise in best interest of their residents, we are constantly threatened with funding cuts, program migration and loss of service with no recourse or actions protecting the customers/residents of our communities. In one of our communities lines have already gone dead due to their lack of profitability according to the provider. We are certain this trend will continue robbing rural residents of PEG channels and video services they have come to rely on for the past 25 years.

We rely upon our PEG channels to convey important public information throughout our communities, and our residents rely on those access channels to receive local information they otherwise would not have. If the channels are less accessible for technical reasons, or because one must effectively pay extra to receive the channels, the PEG channels would become a much less effective and therefore marginalized avenue for cherished and important community communications, and many subscribers we now reach would not receive that information at all. While we do not face the problems caused by PEG digitization or by the Channel 99 platform yet, if the Commission were to endorse the actions of AT&T and Comcast at issue in this proceeding, we have little doubt that *Charter Communication would adopt those approaches, to marginalize or effectively eliminate PEG access.*

3. The Commission Should Grant the Petitions Concerning AT&T's PEG Product (CSR-8126 & CSR-8127)

Our experience confirms many of the deficiencies identified in the petitions. In virtually every conceivable way that matters to a viewer, the AT&T PEG product is markedly inferior to broadcast channels carried on AT&T's U-verse system: Ease of finding in the menu system, ease of access, the time it takes to reach the PEG programming, the ability to switch back and forth between local PEG programming and other channels, ability to record using DVR, closed captioning capability, and secondary audio ("SAP") capability.

I have personally seen the AT&T platform demonstrations both as provided by AT&T technicians and in the home of a resident in the Southern Oakland County area. In short the process to finding PEG channels is discriminatory and marginalizes the ability of anyone but a savvy web surfer to connect. Our 55-80 year old residents will never effectively ever see their cherished programs provided by local PEG channels again when AT&T comes to our town. The program quality too is horrid. The shows pixel, freeze up and have the look of a U-Tube download on a commercial television set. Surely this is not the equal treatment the Federal Communications Commission had in mind when it passed the Telecommunications act

Accordingly, to preserve PEG as envisioned in the Cable Act, the Commission should grant the petitions in CSR-8126 and CSR-8127.

**Please keep our Access channels whole and support the concept initiated by Commissioners before you that PEG should be kept on the lowest possible tier for the viewing of all community residents / customers.**

4. The Dearborn Petition and Comcast's PEG Digital Channel-Slamming (CSR-8128)

**The Mid Michigan Area Cable Consortium** also supports Dearborn's petition in CSR-8128. Dearborn is clearly correct that Comcast's proposed treatment of PEG violates the Cable Act and would have impermissibly removed PEG channels from the basic tier.

While it has not yet been implemented, a PEG digitization slamming practice as Comcast has done in Dearborn, has been intimated (threatened ) by Charter Communications, our cable operator . This action would force our municipal governments to do likewise as Meridian Township and the City of Dearborn and file a Federal lawsuit of our own. The only thing the multibillion dollar corporations that run our cable services provide for our communities is the access to local originated channels for use by the communities from which they reap huge profits. Once lost these valuable communication services will be lost forever. Nonetheless, there is every reason to believe that **Charter Communications** will digitize our PEG channels unless the questions posed in the Dearborn petition are answered as Dearborn proposes. In fact they have assured us of that even in advance of your ruling. Our first threat of this action came in August of 2008.

Conclusion.

Our PEG channels are a **critical and irreplaceable** resource for our community. They are the key medium of communication for our local governments, educational institutions, and area residents to communicate to local residents and among themselves, and to watch and engage in a dialogue about our communities. In light of the decreasing amount of truly local programming available on broadcast and other commercial channels, **PEG is the only full-time, genuinely local source of television programming available to our residents.** We therefore strongly urge the Commission to grant all three petitions.

Respectfully submitted,



Jan Howard

**Executive Director**

**Mid Michigan Area Cable Consortium**

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